INTRODUCTION

The River District manager has traditionally provided the Board with a report on district activities at each of the regularly scheduled quarterly meetings in the form of a "quarterly report." These quarterly reports go back to at least the early 1950s and provide a good historical record of District activities and priorities.

Beginning in 1997, I expanded the report using it as a means to educate board members and the public on the activities of the River District. The report is regularly posted on the River District website. For 2004, I'm making a change to the format of this report. I want to continue to use this report as an historical background document, but streamline it (it's too lengthy). The report will include a separate section on River District goals, priorities and activities. This section will be updated quarterly. **This report's 2003 summary begins on page 13 in bold**.

BACKGROUND

HISTORY

The Colorado River Water Conservation District (River District) was created by the Colorado General Assembly in 1937. The history suggests that the River District legislation was a compromise. State legislation creating the Colorado Water Conservation Board and authorizing the formation of conservancy districts was also introduced and passed in 1937. To address the fears of West Slope legislators that the Colorado Water Conservation Board would be dominated by Front Range interests, the River District was created as an "equalizer."

BOUNDARIES

The River District boundaries include all or parts of 15 West Slope counties and encompasses all or parts of the Colorado River mainstem, Yampa, White, Gunnison, Uncompahgre and Dolores River drainages.

Under the 1937 legislation, the River District included Summit, Eagle, Garfield, Mesa, Pitkin, Delta, Gunnison and Montrose Counties. In 1955, Grand, Moffat, Routt, Rio Blanco and Ouray Counties joined the District and in 1961, the portions of Hinsdale and Saguache Counties within the Colorado River Basin became a part of the River District.

Within Colorado, there are two other water conservation districts, the Southwestern Water Conservation District which was created in 1951 and the Rio Grande Water Conservation District, created in 1961.

MISSION AND GENERAL POWERS

The River District's general mission and powers are described in its legislative charter. The legislative declaration states:

> **37-46-101. Legislative declaration.** "In the opinion of the general assembly of the state of Colorado, the conservation of the water of the Colorado river in Colorado for storage, irrigation, mining, and manufacturing purposes and the construction of reservoirs, ditches, and works for the purpose of irrigation and reclamation of additional lands not yet irrigated, as well as to furnish a supplemental supply of water for lands now under irrigation, are of vital importance to the growth and development of the entire district and the welfare of all its inhabitants and that, to promote the health and general welfare of the state of Colorado, an appropriate agency for the conservation, use, and development of the water resources of the Colorado river and its principal tributaries should be established and given such powers as may be necessary to safeguard for Colorado, all waters to which the state of Colorado is equitably entitled under the Colorado river compact."

The statute gives the River District broad powers to carry out its declaration. These powers are described in detail in S 37-46-107 (a) through (l). In general, the River District can appropriate water rights, litigate water matters, enter into contracts, hold real property, operate projects, etc. Paragraph (c) is particularly important because it has guided many of the District's past actions:

> **(c)** "To make surveys and conduct investigations to determine the best manner of utilizing stream flows within the district and the amount of such stream flow or other water supply, and to locate ditches, irrigation works, and reservoirs to store or utilize water for irrigation, mining, manufacturing, or other purposes, and to make filings upon said water and initiate appropriations for the use and benefit of the ultimate appropriators, and to perform all acts and things necessary or advisable to secure and insure an adequate supply of water, present and future, for irrigation, mining, manufacturing, and domestic purposes with said districts;"

BOARD OF DIRECTORS

The District's legislation states that the district shall be managed and controlled by a board of fifteen directors, one from each of the 15 member counties. Board members are appointed by the board of county commissioners from each county and serve three year terms. Each January five board members are up for appointment. In 2004 those counties are Delta, Eagle, Grand, Hinsdale and Summit.

The Board elects a president and vice president and appoints a secretary (normally the manager) and treasurer. In 2002, the Board adopted a two term limit commencing in 2002, for its president and vice president.

The Board utilizes committees as necessary. The duties of the officers and procedures for committee meetings are further described in the District bylaws.

Regular Board meetings are held in Glenwood Springs on the third Tuesday of January, April, July and October and normally run two days. For 2004 those dates are:

January 20-21, 2004.
April 20-21, 2004.

July 20-21, 2004.
October 19-20, 2004.

The Board also holds special meetings and tours as necessary, including a budget workshop typically scheduled in mid-September.

RESOURCES

The available River District resources include its water resources (projects, contracts, absolute and conditional water rights) staff resources and budget resources.

The River District operates one project, Wolford Mountain Reservoir, located on Muddy Creek north of Kremmling. It also has contracted interests in water through its shares in Eagle Park Reservoir, the Homestake Reservoir exchange, water from the Twin Lake enlargement decree, three contracts with the Bureau of Reclamation for a total of 1,930 a.f. of Ruedi Reservoir water and a contracted interest in the Taylor Park Reservoir second fill.

The staff includes a manager, general counsel, water resource engineers and hydrologists, project caretakers and other public affairs, legal and administrative support personnel.

The River District utilizes three general budgets: the General Fund budget, Capital Fund budget and Water Projects Enterprise budget. The General Fund budget covers the general administration and operation of the River District. Revenues for this fund are primarily property taxes. The 2004 mill levy is .253 mills. Property tax revenues for 200 will be in the range of $2.4 million.

Because of constitutional budget limitations (TABOR), the River District mill levy has been declining steadily; however, because of increased assessed valuations, total revenues have been going up at a modest pace. In 1996, revenue from property taxes was $1,917,621. In 2004, the budgeted property tax receipts are $2,461,115.

The Capital Project budget covers capital expenditures such as the acquisition of the office building and the capital grants program. Revenues for this fund are the sale of District assets, annual appropriations, interest earnings and the annual unspent balances from General Fund line items.

The Colorado River Enterprise budget covers our “business” operation of providing water. Revenues are from the Denver Water Board lease, water supply contracts and interest earnings. Enterprise expenditures are limited to those projects and prospective projects covered by the Enterprise. The Enterprise and General Fund jointly cover the costs of district personnel and board expenses on a proportional basis.

THE HISTORICAL SETTING

1937-1950s - THE EARLY YEARS

The focus in the early years was planning for the federal development of water projects on the West Slope and protecting the West Slope from transmountain diversion projects, primarily by Denver. During this period the River District was staffed by a contract engineer and outside counsel. The River District's first General Counsel, Frank Delaney, was the principal author of its statute.

The River District's priorities were:

1. Participation in the negotiations that led up to the 1948 Upper Colorado River Compact.

2. Lobbying for and encouraging surveys and feasibility studies by the Bureau of Reclamation designed to identify Reclamation projects. These traditional Reclamation projects would be primarily for agricultural purposes and would encourage the settlement of the West Slope.

3. Representing the West Slope on transmountain diversion issues; the primary case was the litigation and negotiation with Denver, the United States and others that led to the stipulation and settlement of the Blue River Decree. This settlement adjudicated the rights of Denver for its Dillon Reservoir/Roberts Tunnel Project and the United States' rights for Green Mountain Reservoir and the West Slope features of the C-BT Project. Under the settlement, Green Mountain Reservoir received the senior priority, but through the ability to exercise exchanges and provide power interference, Denver got enough water to make Dillon a feasible project. This period also included discussions and negotiations over the Frypan-Arkansas Project, which began as the Gunnison-Arkansas Project. These negotiations were concluded in 1959 and documented in the Frying Pan-Arkansas operating principles which became part of the authorizing legislation. Ruedi Reservoir was constructed as the compensatory storage a part of the project.

4. Lobbying for comprehensive federal legislation for the development of the Upper Colorado River Basin. This effort resulted in the passage of the 1956 Colorado River Storage Projects and Participating Projects Act (CRSPA). Under CRSPA, Reclamation constructed Glen Canyon Dam, Flaming Gorge Dam, the Aspinall Unit and Navajo Dam. Storage in these large reservoirs is managed so that the Upper Basin states meet downstream compact requirements. Revenues from hydroelectric plants are used to subsidize the irrigation components of the participating projects.

THE LATE 1950sTO THE MID 1970s - THE FEDERAL YEARS

During this period, the primary focus of the River District was the development of the federal projects envisioned by CRSPA. Internal Colorado issues included the proposed expansion of Denver's West Slope collection system, the water rights filings for the Windy Gap Project, the 1969 rewrite of the procedural aspects of Colorado water law, and the state legislation authorizing the CWCB's instream flow water rights program.

The federal involvement included much more than the construction of federal water projects. This period saw Congress pass NEPA, the Endangered Species Act, the Wilderness Act, the Clean Water Act, the 1968

Colorado River Basin Act (which authorized the Central Arizona Project and five participating projects in Colorado) and the Colorado River Salinity Control Act.

During this period the River District staff stayed very small: a Secretary/Engineer, office manager, technician, and law firm. However, the use of contract help for engineers, public relations and lobbying increased significantly.

The River District's priorities included:

1. Adjudicating water rights for the proposed CRSP participating projects with the District.

2. Encouraging and assisting in the formation of local conservancy districts.

3. Working with Reclamation on the identification and analysis of participating projects.

4. Litigating significant federal issues, addressing such items as the filling of Lake Powell, adjudication of federal rights under the McCarran Amendment and the implementation of the Endangered Species Act.

5. Opposing in water court the expansion of Denver's Dillon Reservoir/Roberts Tunnel system. The specific projects challenged were the East Gore collection system, Eagle-Piney Project, Eagle-Colorado Project and Straight Creek Project. In response, Denver challenged and successfully knocked out several River District conditional water rights. In 1964, and again in 1977, the River District and Denver went to federal court over the interpretation of the Blue River Decree.

6. Challenging the adjudication of the Windy Gap Project. After the Colorado Supreme Court ruled that the proposed Windy Gap Project had to comply with the conservancy district statute, the Municipal Subdistrict ultimately settled with the West Slope in the 1980 Azure-Windy Gap Agreement.

7. The River District began actively cooperating with energy companies. It conducted joint studies with several oil shale companies and filed a FERC application to build the Juniper-Cross Mountain Project as a joint project with the Colorado-Ute Electric Association.

8. On the issue of instream flows, the River District went to the Colorado Supreme Court twice - and lost. First, it tried to use its own instream flow powers, 37-46-101(g), to block a potential transbasin diversion in the Yampa Basin, then it challenged the constitutionality of the CWCB instream flow statute.

THE EARLY 1980s TO 1992 - THE TRANSITION YEARS

To then Secretary/Engineer Rolly Fischer's great credit, he was one of the first to understand that the federal role in water development had fundamentally changed in the 1970s and there was no turning back the clock. The 1980s were a period of great change for the River District and western water in general. During this period, the River District sought its own independent path. The annual budget and staff increased significantly, the General Counsel position moved in-house.

The milestones included:

1. In 1982, the impact of the oil shale bust on western Colorado, environmental and federal agency opposition primarily due to endangered fish concerns, and building local opposition killed the Juniper-Cross Mountain Project.

2. In 1982, the Municipal Subdistrict proposed building a multi-billion dollar pumped storage project as a way to satisfy its obligation to build Azure Reservoir. Azure is located on the mainstem of the Colorado River in Lower Gore Canyon, downstream of Kremmling. The River District, Middle Park Water Conservancy District and Grand County objected. The parties ultimately negotiated the Azure-Windy Gap supplemental agreement. Under this agreement, the Municipal Subdistrict paid the River District $10.2 million, which was used to help fund the construction of Wolford Mountain Reservoir.

3. Water rights litigation with Denver continued through most of the 1980s. After a Special Master and the Division 5 water judge ruled that Denver Water did not have the authority to appropriate water for use outside its boundaries for the four West Slope projects (East Gore, Eagle-Piney, Eagle-Colorado and Straight Creek), the Colorado Supreme Court overturned this decision, except for East Gore, where the court ruled that Denver never established an intent to appropriate. The Supreme Court remanded the case back to the water court to determine the amounts of water Denver was entitled to based on its contracts and agency relationships at the time of the appropriations.

4. In the early 1980s, the River District Board and staff actively participated in Governor Lamm's Metropolitan Water Roundtable and the Denver system wide/Two Forks EIS process.

5. In 1985, Summit County and Denver reached an agreement where Denver agreed to provide water for snowmaking and municipal purposes in Summit County. Denver agreed to subordinate recreation on Two Forks to Dillon Reservoir and agreed to Dillon Reservoir elevation targets during the summer season. In return, Summit County agreed to actively support the federal permitting of Two Forks Reservoir and issued Denver a 1041 permit for the Straight Creek Project.

6. In 1986, the River District, Denver Water, the Northern Colorado Water Conservancy District and its Municipal Subdistrict signed a MOU settling the remand case. Under this MOU, the River District agreed to decrees for Eagle-Piney, Eagle-Colorado and Straight Creek Projects and not to oppose the permitting of Two Forks Reservoir. In return, Denver agreed to the concept of attempting to build the Green Mountain Pumpback Project before proceeding with the Eagle-Piney or Eagle-Colorado Projects. Denver also agreed to subordinate its Eagle-Colorado Project to West Slope uses (if ever built) and to a 25-year lease from Wolford Mountain Reservoir. Denver wanted a 25 year lease to use Wolford as an interim water supply until Two Forks Reservoir was constructed (a 15 to 20 year process). The concept behind the Wolford lease is that Denver uses this water as a substitute for the water Dillon Reservoir owes Green Mountain Reservoir in those very dry years (about 1 in 7) when Green Mountain Reservoir does not fill by natural inflow originating between Dillon and Green Mountain Reservoir. The Secretary of the Interior(delegated to

Reclamation) must approve of each substitution.

7. In the mid 1980s, the relationship between the River District and Summit, Eagle and Grand Counties was often strained. The River District and Summit County had different views on the need for and interpretation of the Summit County agreement. Eagle County was upset with the River District's lack of involvement in the Homestake II Project (the River District neither supported or opposed Homestake II) and Grand County was left as the only West Slope front line entity opposing Two Forks.

8. Denver complicated the situation in 1988 by filing for water rights to implement the Green Mountain Pumpback Project and the Wolford Mountain substitution. While acknowledging the pumpback as a part of the 1986 MOU, the River District took the position that the 1988 exchange filing was premature and unnecessary. The exchange application was opposed by numerous West Slope entities and raised a number of unresolved river administration issues. The United States filed a competing application to adjudicate exchange rights for West Slope users of Green Mountain Reservoir. Denver's applications were dismissed, except that its "refill" right for Dillon Reservoir was decreed. The U.S. application was decreed.

9. In 1990, the EPA vetoed the Two Forks Project. The veto left Denver with a Wolford (then referred to as Rock Creek) lease that it could not use. Ultimately, in 1992 Denver, the United States, the River District and other West Slope parties reached a comprehensive agreement that settled the Green Mountain exchange case, amended the Wolford lease to give Denver a permanent 40% interest in Wolford Mountain Reservoir (for an annual lease that provides the River District $3 million/year through 2019), allowed for the acquisition of Clinton Gulch Reservoir by Summit County (the River District provided $4 million toward the acquisition), and provided 920 a.f. of water through Denver's Moffat system to the Fraser River Valley in Grand County.

10. The final legal challenge to the construction of Wolford Mountain Reservoir was addressing concerns in the Grand Valley with the impact of the Wolford Mountain substitution on salinity levels in the Colorado River. This issue was settled through what we refer to as the Palisade stipulation. Under this agreement, Denver agrees to sequence a Wolford substitution by using Williams Fork water during the critical irrigation season. In hindsight, actual salinity levels at Wolford Mountain Reservoir are much lower than the "modeled" levels predicted prior to the construction of the reservoir.

11. The 1980s were also an active period for the Gunnsion River Basin. Taylor Park Reservoir, located on the Taylor River upstream of Gunnison, was constructed by the Bureau of Reclamation in the late 1930s as a late season water supply for the Uncompahgre Project. After the completion of the Aspinall Unit in the 1970s, the Upper Gunnsion River Water Conservancy District, Uncompahgre Valley Water Users Association, River District and the Bureau of Reclamation entered into the 1975 Taylor Park exchange contract. This agreement allows Taylor Park operations to benefit irrigation and recreation uses in the Upper Gunnison Basin. In the mid 1980s, Upper Gunnison filed for second fill rights at Taylor Park to adjudicate its benefits under the 1975 exchange. In a landmark case that went to the Supreme Court, Upper Gunnison ultimately received the rights which were subsequently conveyed to the United States in a 1991 agreement. The Taylor Park second fill right is considered groundbreaking because it recognized that water can be stored in a

reservoir and subsequently released to optimize instream recreation and environmental benefits.

12. In 1986, two new applications were made for transmountain diversion projects out of the Gunnison River. Aurora filed for, then ultimately dropped, an application for its Collegiate Range Project. NECO, a private company, filed for the Union Park transmountain diversion project. In 1988 Arapahoe County bought out NECO and refiled the application. The Union Park case went to the Supreme Court twice. The application was eventually denied based on water availability.

13. In the late 1980s, the River District began investigating alternatives for its Juniper-Cross Mountain rights. In 1989, then Department of Natural Resources Executive Director Chips Barry suggested the River District utilize the rights for instream flow purposes to support the Recovery Program.

14. Throughout the 1980s, federal issues remained very controversial. The River District and other water users first adopted a strategy of trying to amend or repeal the ESA. This approach was not successful. so Colorado water organizations organized to negotiate a programmatic approach to recovering the four native fishes listed under the ESA. This led to the signing of the Upper Colorado River Basin Endangered Fishes Recovery Program MOU in 1988. By the early 1990s the River District was expending considerable staff resources to follow and participate in Recovery Program activities.

1993 TO 1999 - CURRENT ERA

The current era began about 1993 with the final approvals for construction of Wolford Mountain Reservoir. Actual project construction began in August 1994 and was completed in 1996. During this period, the River District staff continued to expand. Additionally, the River District matured as an organization. The Board adopted formal employee guidelines and policies, Rolly Fischer (Secretary/Engineer from 1968) retired in 1996, and in 1997 there was a significant turnover of board members.

1. The Board formalized its Water Projects Enterprise as a government "business" providing long- term water contracts.

2. The Board adopted a water marketing policy and made 10,000 a.f. of Wolford Mountain yield available for long- term contracting.

3. The River District convened the Eagle River Assembly (ERA). Ultimately the ERA process led to the 1998 Eagle River MOU. Under the Eagle River MOU, the Homestake II sponsors, Colorado Springs and Aurora, agreed to abandon their plans to build the controversial Homestake II Project and explore alternative projects more acceptable to the Eagle River Basin. The Eagle River MOU set the stage for Vail Associates, Upper Eagle Regional Water Authority, Eagle River Water and Sanitation District and the River District to establish the Eagle Park Reservoir Company and use it to purchase Eagle Park Reservoir (a reclaimed tailings pond) from Climax Molybdenum Company. The River District owns shares for 200 acre feet of Eagle Park Reservoir water and another 100 a.f. of Homestake Reservoir. The Eagle River water is marketed through the Enterprise.

4. Recovery Program issues remained a high priority.

- In 1996, the CWCB filed for base flow and peak flow water rights in the Yampa River below Craig and the 15 Mile Reach of the Colorado River. These filings triggered significant West Slope opposition and a renewed interest in the Recovery Program.

- In 1997, controversy over the CWCB filings, the concept of "sufficient progress" and proposed federal legislation authorizing the Recovery Program led to the discussions and negotiations that resulted in the December 1999 15 Mile Reach Programmatic Biological Opinion (PBO). The PBO was a new concept which in theory provides more certainty for both the U.S. Fish & Wildlife Service and for water users. The basic concepts of the 15 Mile Reach PBO are:

  a. The PBO covers <u>all</u> existing depletions (about 1,000,000 a.f./year on average, 1,200,000 a.f./year on maximum), plus an increment of new depletions (60,000 a.f/year increasing to 120,000 a.f./year depending on fish response).

  b. The PBO was actually a specific biological opinion on five Reclamation projects with the non-federal projects considered "interrelated and interdependent."

  c. For the first time, the PBO covers section 9 incidental take issues.

  d. The PBO opinion includes specific biological criteria that will trigger a reopening of the opinion. If the opinion is reopened, the U.S. Fish & Wildlife Service first reopens new uses, then existing uses (as of 1995).

  e. The PBO requires new beneficiaries to sign recovery agreements and asks historic beneficiaries to sign the same agreement.

  f. The PBO requires a number of specific actions; a "CFOPS" project to enhance spring peak flows, legal protection of reservoir releases, implementation of the Grand Valley Water management contract; a permanent source of 10,825 a.f. of water for delivery to the 15 Mile Reach; an interim contract for 10,825 a.f. of Ruedi Reservoir water (through 2012).

Upon completion, the River District Board supported implementation of the 15 Mile Reach PBO and signed an interim (through 2010) contract delivering 5,412.5 a.f. of Wolford Mountain water to the 15 Mile Reach. The Board also requested that the Recovery Program complete equivalent PBOs in other basins. The River District has not considered signing a recovery agreement until these other PBOs are complete.

5. Recovery Program Policy.

During the negotiations of the 15 Mile Reach PBO, the River District adopted a Recovery Program policy. Much of the policy dealt with the CWCB instream flow rights filed in support of the Recovery Program. These filings have been withdrawn. Other elements of the policy addressed good science (which has led to independent research sponsored by the River District), fair coverage of all the basins by the Recovery Program and equity between in-basin and transbasin projects for meeting endangered fish needs.

6. Transmountain Diversion Issues.

After the Two Forks veto, the State of Colorado took the initiative to get a Front-Range wide process moving again. The state sponsored the Metropolitan Water Supply Investigation (MWSI). MWSI focused on four non-traditional water supply options: project integration, effluent reuse, interruptible supply contracts and groundwater-surface water conjunctive-use. A final report was issued in 1998. The report concluded that, in general, metro area water supplies were adequate to meet demands through the year 2020. The report recommended further work on effluent reuse, up to 100,000 a.f. of supply is available for future use. It also recommended conjunctive-use be further explored.

The Denver Water Board changed its planning philosophy. It prepared an Integrated Resource Plan (IRP) designed to meet the water needs of Denver, its distributors and fixed contracts through 2045. Denver adopted a policy of working on cooperative projects with other metro water suppliers, but it decided not to build projects "for" these suppliers as it had planned with Two Forks.

In 1998, the River District, working in cooperation with the Northwest Colorado Council of Governments (NWCOG), Quantity-Quality Committee (QQ), Denver Water and others began the Upper Colorado River Study (UPCO). Also in 1998, the River District Board and the Denver Water Board approved a joint resolution which led the Douglas County Water Resources Authority Study.

In 1998, the Southeastern Colorado Water Conservancy District began a programmatic study of water needs in the Arkansas River Basin by initiating the Arkansas Basin Storage Needs Assessment Study.

The Northern Colorado Water Conservancy District expanded its municipal system by building the Southern Supply Pipeline Project. This pipeline delivers C-BT Project water into the Northern Metro area; Broomfield, Louisville and Fort Lupton. Northern's policy does not allow C-BT water south of the Boulder County line, but Thornton has acquired large amounts of non-C-BT water from Northern farmers. Thornton won a critical court case allowing transfer of this water to Thornton, but has not started the project construction.

2000 through 2004- RECENT YEARS

The last three years have been both productive and challenging. Collectively, these three years may be one of the driest on record.

1. **Colorado Statewide Matters.**

a. The Drought. Hydrologically, both 2000 and 2001 were dry years. Hydrologically, 2003 was mixed, some watersheds had above average precipitation and runoff, but most of the West Slope remained dry. The 2000 snowpack and runoff were only "moderately" dry ($\gtrsim$90% of average). However, the summer and fall of 2000 were very dry resulting in large releases from basin reservoirs. The dry soil conditions from 2000 carried forward into 2001. Then 2001 carried forward into 2002.

The 2001 snowpack was again only moderately dry (85 to 90% of average), but actual runoffs were far below the projections. For the first time since the completion of construction, Wolford Mountain Reservoir failed to fill reaching approximately 63,000 a.f. (full is 66,000 a.f.) Additionally, for the first time since 1994 (and only the fourth time in 25 years), Green Mountain Reservoir did not reach a Blue River fill - resulting in a substitution (8,500 a.f).

The summer of 2001 brought average rainfall, but the fall of 2001 was very dry. Going into the 2001-2002 winter season soil conditions were very dry and reservoir levels were lower than average. The 2001 substitution triggered interest by Colorado Springs in a long term substitution agreement (similar to what Denver has with its Wolford supplies).

The combination of dry soils, lower than average snowfall through most of the winter of 2001/2002, a record dry and warm spring in 2002, and continued hot and dry conditions through August 2002 resulted in 2002 being a record dry year throughout most of Colorado. In general, conditions in the southern basins were the most severe, but the northern basins were still very dry. By mid-May, it was obvious that extraordinary measures would be needed to make it through the summer.

2002 Highlights

- For the first time since 1954, Green Mountain Reservoir did not achieve a legal fill. Green Mountain contract users received no water.

- Theoretically, the Green Mountain Reservoir 66,000 reservoir Historic User Pool (HUP) filled, but this amount of water was not available because of restrictions on the reservoir due to concerns by Reclamation that excessive drawdowns would reactivate or mobilize the Heeney Slide.

- Through a program of utilizing Ruedi Reservoir water under contract, but not scheduled for release, uncontracted Ruedi water, and significant demand reductions, we were able to meet all critical water demands through the summer, including Green Mountain Reservoir contract users.

- Throughout Colorado, only a few small reservoirs filled, available spring flows were 10 to 30% of normal. Wolford Mountain Reservoir only stored 3,000 a.f. Dillon Reservoir stored no water in priority. Blue Mesa Reservoir stored no spring runoff water. Overall inflow to Lake Powell during April to July 2002 was about 14% of normal, a record low flow.

- For the second consecutive year, Denver and Colorado Springs made substitutions for water stored out-of-priority against the Green Mountain Reservoirs storage right. Green Mountain substitutions total about 32,000 a.f. (29,000 a.f. for Denver and 3,000 a.f. for Colorado Springs). Denver used all but about 1,000 a.f. of the substitution water it had available in Wolford Mountain Reservoir.

- Most municipal water providers throughout Colorado enacted stringent water conservation measures. Denver Water declared a stage II drought in July. It prohibited outdoor lawn watering beginning October 1st. Denver expects that its stage II measures will remain into the spring of 2003. The City of Aurora was particularly hard hit. Its system only diverted about 30% of the amount of water Aurora's water managers expected for a drought year.

- In the Gunnison River Basin, the Gunnison Tunnel placed a call on the river in June which stayed on the river through the summer. Ultimately, the Uncompahgre Valley Project used almost all of its available storage in Taylor Park and Ridgway Reservoirs. The Upper Gunnison River Water Conservancy District fully used its available Taylor Park Reservoir second fill water to keep irrigation uses in the Upper Gunnison District in priority through June. In some Upper Gunnison Basin tributaries, local calls senior to the Gunnison Tunnel were the controlling rights.

- To minimize Aspinall releases and maximize water available for upstream uses, the River District entered into two agreements to reduce the Redlands call (which is at the very bottom of the Gunnison Basin). In July 2002, the River District and Redlands Water and Power Company agreed to an arrangement where the River District paid Redlands power interference to maintain the Redlands call at 600 cfs (instead of 750 cfs). This agreement was part of an overall package where the CWCB, Reclamation and the U.S. Fish & Wildlife Service also agreed to reduce the fish ladder and Two Mile Reach flow demands. These fish flow needs are met through Aspinall Unit releases.

- In late October, the River District and Redlands made an agreement to remove the Redlands call through the winter months. Again, the River District agreed to pay Redlands the lost power revenues. This agreement allowed upstream junior reservoirs to store available water through the winter months.

- Going into the winter of 2002/2003, reservoirs throughout Colorado are at very low levels, some approaching "dead" storage. It will likely take several average and above-average winter snowfalls to recover reservoir levels, soil moisture and base stream flows. The winter of 2002/2003 is a moderate "El Nino" year. In a typical El Nino year, Southern Colorado receives average to above-average precipitation, but Northern Colorado (north of I-70) has an equal chance of being wet or dry.

2003 Partial Recovery

In 2003, watersheds along the Continental Divide from Hoosier Pass north to Rabbit

Ears Pass experienced significant March snowfall resulting in an average to above average spring runoff flows. However, drought conditions remained throughout most of the Colorado River system watershed.

- **The Colorado River watershed above Kremmling experienced the greatest benefit, primarily because this region benefitted from one major snowstorm that primarily hit the Front Range, but impacted the watershed for a few miles west of the Continental Divide. This particular storm delivered over 8 feet of snow to Winter Park, but only 2 inches in Kremmling.**

  Consequently, on the Blue River, both Green Mountain and Dillon Reservoirs filled. Denver's Williams Fork Reservoir went from near empty (about 7,000 a.f.) to full (about 96,000 a.f.) and Granby Reservoir, the major storage bucket of the C-BT Project, went from about 100,000 a.f. to over 380,000 a.f. (full is 530,000 a.f.). The Windy Gap Project pumped a record 64,000 a.f.

- **Conditions in the remainder of the Colorado River watershed (Division 5) were below average, but not terribly, allowing for a decent recovery in storage. Wolford Mountain Reservoir stored over 33,000 a.f., but was still over 16,000 a.f. short of filling. The reservoir peaked at 49,000 a.f. Ruedi Reservoir stored over 50,000 a.f. falling about 4,000 a.f. short of filling. Full is 102,000 a.f.**

- **Because of concern with the snowpack in the early winter period, (before the big storm), Denver Water proposed an agreement to reduce the Shoshone call. Discussions on a Shoshone agreement actually began in December 2002. Initially, the West Slope rejected proposals to reduce the call in the January and February 2003 period. Flow conditions on the Colorado were too low to allow any further reductions.**

  The River District and West Slope ultimately agreed to a proposal to reduce the call to one turbine, 700 cfs for the period of mid-March to late May (the ascending limb of the hydrograph). The West Slope received a 10% share of saved water resulting from the agreement.

- **In the Gunnison River Basin, drought conditions improved somewhat, but in general, drought conditions remain. Inflow to Blue Mesa Reservoir was about 60% of normal, not great but sufficient to result in about 30% more water in active storage in late 2003 than late 2002. Storage levels at Taylor Park and Ridgway Reservoirs are about average. Gunnison River base flows remained sufficiently low that the River District entered into an agreement with Redlands to reduce its call to 650 cfs from 750 cfs. In December 2003, there were a number of days where flows were below 750 cfs.**

- **Hydrologic conditions in the Green River Basin remained below average. Spring flows on the Yampa River were near average, but inflow to Flaming Gorge Reservoir was less than 50% of average.**

- **Serious drought conditions remain in the San Juan and Dolores River Basins. Flow levels in 2003 were above 2002, but still very low.**

- **On the Colorado River mainstem, Lake Powell saw its fourth straight year of below average runoff. As of late 2003, base inflows to Lake Powell were about 50% of normal. The December 2003 24 month study predicted that Lake Powell will bottom out at just a bit more than 10 million acre feet of storage (40%). Storage levels at Lake Mead are continuing to drop. Demands for Lake Mead water are about 2 million acre feet per year greater than the inflow that results form the minimum release from Lake Powell (8 1/4 million acre feet per year). Lake Mead Reservoir levels will not recover until Lake Powell has a BIG inflow year, triggering equalization releases.**

b. River District Transmountain Diversion Policy. In 2000, the River District Board adopted a transmountain diversion policy. The policy emphasizes better management of existing Front Range water supplies and the reuse of transmountain effluent and return flows. Denver Water received its federal permits and began detailed design of a non-potable reuse project. In 2001, Denver Water broke ground on actual construction of the re-use project which when completed, will deliver up to 16,000 a.f./year of non-potable water. In 2001, the City of Aurora began construction of a smaller re-use project. The Douglas County Water Resources Authority study is adopting a strategy that involves significant reuse of groundwater and transmountain diversion flows. In 2002, the City of Aurora announced plans to further expand its reuse plans.

In 2003, Denver Water neared completion of the first phase of its recycle (or re-use) project. The first phase of the project, which will be operating by the spring of 2004, will reuse about 7,000 a.f. per year of transmountain effluent.

c. State Legislation. In 2000, the Colorado General Assembly considered, but rejected, legislation that would direct the CWCB to build a 120,000 a.f./year transmountain diversion out of Water Division 4 (Gunnison River) or Water Division 5 (Colorado River). It also rejected legislation to expand the makeup of the CWCB to include more representatives from the Front Range. In November 2000, Colorado voters rejected an initiative that would have significantly reduced River District tax receipts and one which would have imposed growth measures on most counties.

In a special session during the summer of 2002, the General Assembly considered legislation that would provide the CWCB with up to $10 billion in revenue bonding authority. The bill sponsors promise to be back with similar legislation in 2003.

In late 2002, the CWCB agreed to ask the 2003 General Assembly for authorization to conduct a statewide water supply initiative study (SWSI) and a study of what is being referred to as the "Big Straw Project." The Big Straw Project is a proposal to pump water back from below Grand Junction up the I-70 corridor to the Front Range. The River District Board adopted a motion supporting an appraisal level study of the Big Straw Project.

In 2003, the major legislative accomplishment was the passage of the CWCB construction fund bill which authorized the "Big Straw" and Statewide Water Supply Initiative (SWASI) studies. The Big Straw study was completed by the end of 2003.

The other major legislative issue was Referendum A. The Legislature passes "referred" measures. Referendum A would have approved $2 billion in water project revenue bonds to be issued by the CWCB and repaid by user fees. The politics of Referendum A became very divisive from an East Slope-West Slope and rural-urban perspective. Ultimately, the referendum lost by a 2 to 1 vote and failed in all 64 counties.

The 2003 General Assembly passed a resolution endorsing the "Colorado 64" principles. These 10 principles were developed by Club 20 and similar organizations on the East Slope (Action 22, Progressive 15 and the Front Range business community).

d. Recreation Water Rights. In 2001, the State Legislature passed legislation regulating recreation in-channel diversion water rights (RICDs). The concept and debate over RICDs arose out of the Fort Collins boat chute case in the early 90s, laid dormant for awhile, then erupted again after a filing by Golden on Clear Creek. There are three separate West Slope RICD applications pending by Vail, Breckenridge and Aspen. Later in 2001, the CWCB held rulemaking hearings implementing the legislation.

In 2002, the Upper Gunnison River Water Conservancy District filed an application for a RICD on the Gunnison River. The River District filed a statement of opposition. Two other RICD applications were filed on the Front Range by the cities of Pueblo and Longmont.

In the Vail and Breckenridge cases, Judge Ossola issued rulings in favor of the applicants. The Colorado Supreme Court heard oral arguments on the appeal of the Golden case, but did not issue a decision.

In 2003, recreation in-channel diversions remained a controversial issue. The Colorado Supreme Court upheld the Water Judge's ruling in the Golden case by a split 3 to 3 vote. In December 2003, Judge Patrick ruled in favor of the Upper Gunnison River Water Conservancy District granting it a RICD decree as applied for. Although divisive, there has been no rush to the courthouse, only one additional West Slope RICD application was made in 2003 by the City of Steamboat Springs.

e. Water Quality. In 2000, the River District Board adopted a water quality policy. The River District participated in a number of important Colorado Water Quality Control Commission proceedings.

In the summer of 2001, the River District participated in the triennial hearing process for the Lower Colorado River Basin (which includes the White, lower Yampa and lower Gunnison Rivers). We were encouraged by the success of our efforts, however we also recognize that water quality matters have the potential to require large staff and budget

resources.

In 2002, we prepared for CWQCC hearings that are scheduled for 2003. We also followed a number of national water quality issues including a 2001 case where the Ninth Circuit Court of Appeals ruled that the use of pesticides or herbicides required an NPDES permit. To address the problems created by this case, the EPA issued additional nationwide guidelines in 2002.

In 2003, the River District participated in the CWQCC hearings for the Upper Colorado and Yampa River Basins with successful results.

2. **Colorado River (Division 5) Issues.**

a. Colorado-Big Thompson Project. In October 2000 the River District sent letters to the State Engineer and Bureau of Reclamation on the operation of the Colorado-Big Thompson Project (C-BT). The letter to Reclamation expressed concerns that the C-BT Project was not fully utilizing the project's East Slope decrees, that the operation of the non-charge program was both illegal and wasting water and that the operation of the C-BT Project was not in compliance with the Endangered Species Act (ESA). Both the State Engineer and the Bureau of Reclamation have now responded. In May 2001, State Engineer Hal Simpson responded to the River District's concern that under the non-charge program, West Slope water was not being diverted for beneficial use on the East Slope. The essence of the SEO's response is that while the non-charge water may have been delivered out-of-state in the past, it is not happening "under my watch."

In October 2001, Reclamation through Regional Director Maryanne Bach, responded that the non-charge program was not "unlawful" under federal law and that it was up to the Northern Board as to how project water should be delivered to the District's end users.

In November 2001, the Coordinated Facilities Operations Study (CFOPS) consultant working under a contract with the CWCB, concluded that Reclamation could accomplish the CFOPS goal without impacting project deliveries. This conclusion confirmed the results of the Helton study completed in October 2000.

In 2002, the Colorado-Big Thompson Project (C-BT) issues got even more complicated. In April 2002, the Board authorized litigation and delegated to its Litigation Committee the actual timing for filing a complaint. Then, during the summer months the Bureau of Reclamation "rediscovered" the Green Mountain Reservoir limitations necessary to address a landslide on the western edge of the reservoir (the Heeney Slide). In addressing the slide, Reclamation determined that its first obligation for Green Mountain Reservoir is to meet the needs of the 52,000 a.f. replacement pool, thus Reclamations's decision put the entire burden on present and future West Slope uses. This was an unacceptable precedent for the West Slope, thus the River District shifted its C-BT priorities to addressing the slide issues.

In November 2002, the River District made a proposal to the Northern Colorado Water Conservancy District for an "interim" solution and in December 2002, the River District Manager and General Counsel along with the Grand Valley Project Manager and their

General Counsel met with Reclamation Commissioner John Keyes. As of the end of 2002, the River District has not received a response to its proposal from Northern. To further complicate matters, in mid-December Reclamation discovered a 15' x 20' x 5' deep depression on the upstream face of Green Mountain Reservoir.

In early 2003, Northern rejected the River District offer for an "interim" solution that would share future shortages caused by physical problems such as the Heeney slide. The River District did not propose sharing hydrology shortages, SD-80 clearly states that the 52K pool fills first.

In the spring of 2003, Reclamation determined that the depression on the face of Green Mountain Dam was nothing worse than a cosmetic problem. In early summer, Reclamation raised the slide generated operations restrictions imposed on Green Mountain Reservoir.

Reclamation removed the 20,000 a.f. storage restriction from imposed restrictions on the rate at which water can be released from the dam. However, Reclamation will continue to monitor the slide movement and may impose additional restrictions if necessary.

The River District and its allies, Middle Park Water Conservancy District, Grand Valley Water Users Association, Orchard Mesa Irrigation District, Palisade Irrigation District and the Grand Valley Irrigation District filed suit in Federal Court in August 2003.

The United States (through the Justice Department) and Northern Colorado Water Conservancy District filed motions to dismiss the suit. The State of Colorado through the Department of Natural Resources and the Division of Water Resources filed a motion to intervene, in general support of the West Slope position. This motion to intervene was opposed by Northern and the United States. As of December 2003, these motions were still being considered by Judge Nottingham.

Operationally in 2003, Green Mountain Reservoir returned to a more normal operation. The runoff was sufficient to achieve a physical fill. Releases to downstream demands were about average, but below the amount of water released in 2001 and 2002. As of December 2003, Green Mountain Reservoir had 71,000 a.f. in storage, about average.

In the fall of 2003, the Bureau of Reclamation held scoping hearings for the proposed Windy Gap Firming Project. The Windy Gap Firming Project is being sponsored by the Northern Colorado Water Conservancy District Municipal Subdistrict. The project alternatives include several reservoir sites on the East Slope, Chimney Hollow and Little Thompson Reservoir and one reservoir in Grand County, Jasper North.

b. Denver Water. In 2000, the River District, Summit County and Denver Water entered into a "standstill" agreement giving Denver a diligence decree on its Roberts Tunnel system

while preserving Blue River Decree issues such as the decreed limitation on use of Blue River water in the Denver "metropolitan area." The standstill period is three years (until November 2003) which should be sufficient time for the completion of the Upper Colorado River Basin (UPCO) and Douglas County Resources Authority (DCWRA) studies.

In 2001, the standstill period continued. The UPCO and DCWRA studies have been moving forward, but slowly. Toward the end of 2001, Denver Water and Hydrosphere Inc. completed the UPCO model baseline runs which will be an important analytical tool in developing an Upper Basin strategy. For most of 2001, the DCWRA study was bogged down on difficult groundwater modeling issues. The River District has hired an independent groundwater engineering consultant to help us with the "peer review" process.

In 2002, the pace of discussion among the various parties picked up. In October 2002, Hydrosphere issued the draft UPCO phase II report. The other 2002 highlights were:

- Denver Water determined that one its top priorities is to find a fix for its North End system problem. The North End problem is that Denver does not have sufficient storage to meet its Moffat treatment plant demands during the summers of extended droughts. It needs either additional storage on the North (Moffat Tunnel) End of its system or a better interconnection with its South End (Blue River/Platte River).

- In the fall of 2002, Denver Water and West Slope parties reached general agreements on discussions which would address a whole host of issues by the end of 2003. The issues include the North End problem, West Slope water supply shortages, Blue River Decree compliance, a Colorado Springs substitution, Dillon Reservoir levels, Blue River stream flows and a possible conjunctive-use project with Douglas County Water Resources Authority.

- Denver, Colorado Springs, Summit County and the River District are close to reaching agreement on a Colorado Springs (CSU) substitution agreement.

2003 was a very busy year for addressing West Slope issues related to the operation of Denver Water's collection system and water rights.

- **In July 2003, the River District, Denver and the Summit County Board of County Commissioners signed an agreement extending the standstill agreement through December 31, 2004. These same parties began meeting on a monthly basis to address Blue River Decree issues.**

- **In September 2003, the River District, Colorado Springs Utilities (CSU), Summit County and others signed the CSU substitution agreement. Under this agreement, the River District provides Colorado Springs with up to 1,750 a.f. of Wolford Mountain Reservoir water for substitution purposes (when Green Mountain Reservoir does not fill). In return, Colorado Springs provides 250 a.f. of water from its Upper Blue River Reservoir every year for uses in the Blue River Basin above Dillon Reservoir.**

The CSU substitution agreement will require further approval by the Bureau of Reclamation and both State Water Court and Federal Court decrees. In late December 2003, the River District and CSU filed joint applications (in both the Division 5 Water Court and the Federal District Court to adjudicate the proposed substitution.

- **In July 2003, the UPCO participants began a phase III (solutions) effort focused on addressing the water supply problems in the Fraser River Basin. The participants selected the firm of GEI to prepare an analysis of potential projects that could meet the identified water needs in the Fraser River Basin. GEI issued a report in December. The UPCO participants began meeting to discuss the next steps.**

- **In September 2003, Denver Water made an application with the U.S. Army Corps of Engineers to begin the scoping process for its Moffat System Improvement (AKA North End Firming Project). Denver Water is currently focused on two storage alternatives, the enlargement of Gross Reservoir or the construction of a new reservoir at Leyden Gulch. Both of these alternatives would divert more water from the Fraser River Basin in average and above average years.**

- **In late 2003, the Summit County UPCO participants began meeting to develop a phase III report for the Blue River watershed. There are shortages above Dillon Reservoir. Recreation flows and Dillon Reservoir levels are also major issues.**

c. Eagle River MOU. In 2000, Denver Water completed a reconfiguration study on its Eagle River rights. In 2001 we held a meeting among Denver and the Eagle River MOU parties to discuss whether or not, and if so, how to bring Denver into the Eagle River MOU. In 2001, the Eagle River parties continued discussions on bringing Denver into the Eagle River MOU. In 2002, because of the severe effect the drought has had on its water supply, the City of Aurora decided to accelerate its project development in the Eagle River. Aurora completed additional technical work on project alternatives.

In 2003, we continued to have a number of meetings among the Eagle River MOU participants and at times, Denver Water. In contrast to Aurora's actions in 2002, in 2003 Aurora decided to slow down the process of developing an Eagle River project. The available project alternatives are very expensive from both annual operating cost and capital cost perspectives. In late 2003, the Eagle River MOU parties, Denver Water and Northern Colorado Water Conservancy District joined together to conduct a feasibility study on a smaller sized Wolcott Reservoir.

d. Arkansas River Basin. In 2000, the Southeast Water Conservancy District completed the Arkansas Basin Storage Needs Assessment Study. The study recommends reoperation of the Fry-Ark Project East Slope reservoirs, providing more storage for municipal storage.

It also recommends the enlargement of Pueblo Reservoir and Turquoise Reservoir as the next phase.

In 2001, Southeast moved forward with its efforts to reoperate the Fry-Ark Project and enlarge the capacity of Turquoise and Pueblo Reservoirs. This approach is now referred to as the Preferred Storage Options Plan (PSOP). Southeast has proposed federal legislation authorizing Reclamation to conduct feasibility studies on enlarging the two reservoirs. This proposed legislation was delayed over a dispute with Aurora. Southeast also filed in the Division Two Water Court for conditional water rights to enlarge the storage at Pueblo and Turquoise Reservoirs. The River District filed a statement of opposition.

In 2002, Southeast continued to pursue federal legislation to authorize a study of enlarging Turquoise and Pueblo Reservoirs. The River District, Southeast, the Twin Lakes Water Company and Colorado Springs began working on two MOUs to address River District concerns. However, toward the end of 2002 local political support for Southeast's proposed legislation began to fall apart. The Southeast Board did not approve a settlement agreement with the City of Aurora and the City of Pueblo remains opposed to the legislation.

In 2003, Southeast and Aurora reached a major agreement settling a number of issues. Southeast agreed to support Aurora's current application for an agricultural conversion and transfer out of the Arkansas Basin, Southeast also agreed not to oppose Aurora's continued use of Fry-Ark facilities. In return, Aurora pays Southeast a lot of money and Aurora agrees to a 40 year moratorium on further agricultural conversions. Both parties agreed to support the pending federal legislation.

However, as of the end of 2003, the dispute between Pueblo and Colorado Springs Utilities (CSU) had not been settled. Pueblo remains strongly opposed to CSU's plans to build a pipeline from Pueblo Reservoir to Colorado Springs. This pipeline would accommodate further exchanges. The City of Pueblo, which is on the "exchange" reach of the Arkansas, would be impacted by those exchanges. The reach is between Pueblo Dam and the confluence of the Arkansas River and Fountain Creek.

In late 2003, the Bureau of Reclamation held scoping hearings for CSU's proposed pipeline. CSU refers to this project as the Southern Delivery System (SDS).

e. Ruedi Reservoir. In 2000, the River District, in cooperation with the Ruedi Water and Power Authority and the Roaring Fork Conservancy began the Ruedi Futures study. The 2000 effort was a study of the regional and economic benefits of Ruedi Reservoir and the Fryingpan River. In 2001, we shifted the study emphasis to fishery issues on the Fryingpan River.

In 2002, we continued our Ruedi futures study efforts. Ruedi Reservoir releases were a critical component of the 2002 drought program. Ruedi Reservoir was drawn down from 78,000 a.f. (at its peak) to about 45,000 a.f. During the last extreme drought (1977), Ruedi Reservoir was only used to a small extent.

In 2002, the Bureau of Reclamation, CWCB and U.S. Fish & Wildlife Service began formal

negotiations to complete a contract for the release of 10,825 a.f. of Ruedi water for endangered fish purposes through 2012. This contract is required by the Colorado River Programmatic Biological Opinion (aka 15 Mile Reach PBO).

In 2003, the Bureau of Reclamation finalized and executed the 2012 contract. The completion of this contract allows Reclamation to market an additional 11,000 a.f. (approximately) of Ruedi water. In late 2003, the River District made an application to contract for a portion of this water, perhaps 8,000 to 10,000 a.f.

f. Wolford Mountain Reservoir.In 2003, the River District completed technical and economic evaluations of the potential for constructing a small hydroelectric plant at Wolford Mountain Reservoir. The River District (through its Enterprise) has a three year FERC study permit. The permit will expire in mid-2004.

In late 2003, the River District made the decision to evaluate a small (2'to 6') enlargement of Wolford Mountain Reservoir. The proposed enlargement would maintain the current maximum inundation or high water line (7,500'), but increase the normal high water line (7,489'). The difference, or surcharge pool, is used for PMF flood routing. However, we believe we have an excess amount of flood surcharge available. In late 2003, the River District, through the Enterprise, filed a water rights application for a Wolford 2nd enlargement.

3. **Gunnison River (Division 4 Issues).**

a. Transmountain Diversions. In 2000, the Colorado Supreme Court upheld the water ruling denying Arapahoe County's water rights application for the Union Park Project.

There were no new filings for transmountain diversions out of the Gunnison Basin in 2001 or 2002, however the filing by the United States to quantify the Black Canyon Reserved Right has triggered a letter from Front Range entities (and one letter signed by three Front Range Congressmen) expressing an interest in obtaining contract water from the Aspinall Unit marketing pool.

In 2002, the CWCB proposed a statewide water supply study. We expect that the SWSI study will include an analysis of potential transmountain diversions out of the Gunnison Basin.

In 2003, there we no new filings or proposals for transmountain diversions out of the Gunnison River Basin, but the issue remains alive. The CWCB's opposition to the Upper Gunnison RICD was primarily based on protecting future transmountain diversion opportunities.

b. Subordination Agreement. In 2000, the Bureau of Reclamation, the River District and the Upper Gunnsion River Water Conservancy District entered into a formal subordination agreement to document the subordination of the Aspinall Unit rights to 60,000 a.f./year of upstream in-basin depletions.

In 2001, the River District and Upper Gunnison completed the first annual report required by the subordination agreement. During the process of preparing the annual report, we discovered that there are about 400 undecreed diversions (or enlargements to diversions) above Crystal Reservoir. In 2002, the River District and Upper Gunnison submitted a second subordination report.

The River District and Upper Gunnison submitted the third annual report in late December 2003. Additionally in December 2003, the River District and Upper Gunnison District filed an application in Division 4 Water Court for judicial confirmation of the subordination agreement.

c. Federal Issues. In 2000, the River District began participating in early discussions on a Gunnison Basin PBO. These discussions were put on hold in 2001 after the United States filed an application to quantify its reserved right in the Black Canyon National Park. We had some preliminary technical meetings to discuss the Park issues, but "progress" on the case was very slow. In fact, by the end of 2001, the courts had not yet decided whether venue for the Black Canyon case would be in Division 4 or Division 5. In 2002, the Chief Justice of the Colorado Supreme Court assigned the Black Canyon Reserved Right quantification case to Division 4.

The United States and opposers began an effort resolve the case. Some progress was made in late 2002 when the United States proposed a settlement based on four concepts:

- Subordinating the Black Canyon right to private rights senior to Aspinall but junior to the 1933 priority of the Park right.
- The Black Canyon right would honor the 60,000 a.f. of Aspinall Unit subordination.
- The Black Canyon right would not impair the yield of the Aspinall Unit.
- The Black Canyon right would not contribute to or aggravate flooding in the Delta area.

Toward the end of 2002, we had some additional discussions concerning the timing of a Gunnison Basin PBO and the relationship among the Gunnison Basin PBO, proposed flow recommendations to support endangered species, the proposed settlement of the Black Canyon case and an EIS on the operation of the Aspinall Unit that Reclamation plans to start sometime in 2003.

In April 2003, the State of Colorado and the United States announced a comprehensive settlement of the Reserved Right litigation. Under the proposed settlement, the United States would receive a reserved right for the 300 cfs base flow only. The CWCB would in turn, make an instream flow filing for the peak flow.

Implementation of this settlement resulted in a number of meetings and a CWCB hearing in mid-November. The parties developed a methodology for estimating the amount of water available to the peak right based on the May 1st runoff forecast. The

bottom line is that Reclamation retains the ultimate say in how much water is released. The CWCB peak flow right was filed in December 2003.

The environmental community opposers were not happy with the April 2003 settlement. In mid-summer these organizations filed a lawsuit in federal court challenging the United States decision to enter into the settlement agreement.

In July 2003, the U.S. Fish & Wildlife Service finalized its flow recommendations for the Gunnison River (at Whitewater). This will allow Reclamation to proceed with the long contemplated Aspinall Unit EIS. Originally Reclamation was planning on holding scoping meetings in the late fall of 2003. However, the schedule has been delayed. Currently the scoping meetings are planned for the February/March 2004 time frame. The EIS process through a record-of-decision will take four to five years to complete.

4. **Yampa River Basin Issues.**

a. Yampa Management Plan. The River District participated in discussions on a Yampa River Programmatic Biological Opinion (PBO). In late August 2000, the parties reached a conceptual agreement on a Yampa Basin management plan that will serve as a basis for the PBO. The plan includes the acquisition by the U.S. Fish & Wildlife Service of 7,000 a.f. of reservoir water for augmentation purposes, of which 3,700 a.f. would come from an enlarged Elkhead Reservoir. The plan contemplates enlarging Elkhead by a total of 8,000 a.f. with the additional 4,300 a.f. available for future human uses.

The Yampa Plan continued into 2001. The U.S. Fish & Wildlife Service issued the detailed "draft plan" report and held NEPA scoping meetings. The River District and the City of Craig began negotiations on an Intergovernmental Agreement (IGA) outlining the process for moving forward the NEPA process on Elkhead enlargement and if the permits are received, the actual enlargement.

In 2002, the River District and the City of Craig completed an intergovernmental agreement covering the permitting of the Elkhead Reservoir enlargement. The River District began negotiating with Craig for a more detailed project agreement and with the Craig Station (power plant) owners that hold about 8,000 a.f. of the existing reservoir.

In late 2002, the River District and the Recovery Program reached a tentative agreement on project financing where the Recovery Program would obtain a permanent interest in 5,000 a.f. of the enlargement. More detailed engineering revealed that the reservoir could be enlarged by about 12,000 a.f. The Recovery Program would also have the right to purchase up to 2,000 a.f. for a short period of time (10 years).

At the end of 2002, the River District filed for junior water rights to support the enlargement of Elkhead Reservoir.

In 2003, the River District primarily focused on completing the complex institutional agreements or contracts necessary to proceed with project construction. The U.S. Fish & Wildlife Service prepared an environmental assessment (EA) as required by NEPA

on the Yampa Management Plan, but as of the end of 2003, it had not yet completed a record-of-decision and finalized the Yampa Basin PBO.

In November 2003, the Colorado Water Conservation Board (CWCB) approved a loan application for the River District. The project financing package will include contributions from the Recovery Program and CWCB loan. Construction will likely begin in the spring of 2005.

b. Little Snake River. In 2002, the River District became actively involved in several Little Snake River issues. In early 2002, the Three Forks Ranch with land holdings in both Wyoming and Colorado filed suit in the federal District Court of Wyoming challenging the operation of the Cheyenne Diversion Project. The Cheyenne Project diverts water out of the headwaters of the Little Snake in Wyoming into the North Platte drainage for use (by exchange) for the City of Cheyenne.
In 2002, the Court addressed procedural and standing issues, but did not address substantive issues.

In late 2002, the River District participated in a meeting with the CWCB and the Wyoming Water Development Commission to discuss possible small storage projects in the Little Snake River Basin.

In 2003, the Federal District Court ruled that Three Forks Ranch did not have standing to file litigation under the 1948 Upper Colorado River Basin compact. Three Forks is appealing this decision.

The River District continued to work with the Wyoming Water Development Commission, the Little Snake Soil Conservation District and the CWCB to examine reservoir alternatives in the Little Snake Basin. The firm of Gannett-Fleming conducted an appraisal level study of the Pothook Reservoir site.

5. **Federal/Interstate Issues.**

a. Federal Legislation. At the federal level, in 2000 Congress passed the Federal Recovery Program funding legislation. Congress also passed the Colorado Canyons Bill which designated BLM areas west of Colorado National Monument as a conservation area and designated these as the Black Ridge Wilderness Area. The wilderness area is important because it designates a downstream BLM wilderness area including the mainstem of the Colorado River and does not include a federal reserved water right. In 2001, Representative McInnis introduced legislation designating Deep Creek as a wilderness area. The legislative debate over the Deep Creek Wilderness continued into 2002. The legislation did not move.

In 2002, Congress passed a small bill extending the deadline for completing the Recovery Program capital projects.

From a federal legislative perspective, 2003 was a relatively quiet year. There were some low key discussions on the Deep Creek Wilderness legislation, but we're still a long ways away from reaching a consensus on the instream flow issues.

In early 2003, the Department of the Interior began its Water 2025 Initiative with a series of public meetings. The Water 2025 Initiative is intended to help facilitate solutions to water "hot spots" throughout the West. Addressing Front Range water demands is one of the identified "hot spots."

b. California 4.4 Plan. Through 2000 and 2001 there was significant progress on Colorado River and interstate matters. In 1999, Secretary Babbit announced that the Department of the Interior (Interior) would develop and adopt interim surplus/shortage criteria for the operation of Lake Mead. These criteria determine whether a normal, surplus or shortage year is declared and the amount of the surplus. Associated with the operating criteria, California, the other six basin states and Interior negotiated the basics of a California 4.4 plan. The purpose of the 4.4 plan is to reduce California's normal year use from its current 5.2 million acre feet per year to the 4.4.million acre feet level. Reducing California's use to 4.4 million acre feet requires a significant amount of current agricultural water use to be transferred to municipal uses. In September 2000, the seven Basin States reached a "consensus" on surplus/shortage criteria. In December 2001, Interior published the Final Environmental Impact Statement on the criteria identifying the seven-state consensus criteria as the preferred alternative.

In early 2001, Secretary Babbit formally approved the interim operating criteria. Secretary Babbit's successor, Gale Norton, has affirmed the Bush Administration's commitment to implementation of the Babbit interim operating criteria.

The major milestone for 2002 for the California water agencies was completion of the Quantification Settlement Agreement (QSA). The QSA quantifies the amount of water each of the four major California agricultural entities can receive. Without the QSA, the California agricultural deliveries are limited to 3.85 million acre feet in a normal year, but there are no allocations of the 3.85 m.a.f. In early December 2002, the Imperial Irrigation District Board of Directors voted NOT to sign the QSA. Although the California water agencies were continuing to negotiate through December 2002, this is a major setback for the 4.4. plan.

At the Colorado River Water Users meeting in Las Vegas in December, Secretary Norton made it clear that if a QSA is not signed, she will reduce California's water deliveries in 2003 to 4.4. m.a.f.

In 2001, environmental issues on the Colorado River Delta in Mexico continued as a major issue for resolution. The Bush Administration through Bennett Raley, has made it clear that the parties need to come up with real solutions to the delta issues, but those solutions need to be consistent with "the law of the River."

In 2002, the Colorado River Delta issues took a back seat to the QSA negotiations. The Board toured the Colorado River Delta region in November 2002.

In December 2000 and throughout 2001 and 2002, the River District joined forces with Denver Water, the Northern Colorado Water Conservancy District, the Southeastern Water Conservancy District, the Southwestern Water Conservation District and the City of Grand Junction to hire Jim Lochhead to continue to work on issues for Colorado.

2003 was a busy and productive year for Colorado River interstate issues. The California parties agreed to a new QSA which was acceptable to the other basin states and the Federal government. This allowed the Secretary of the Interior to reinstate the Interim Surplus Guidelines (ISGs). The issue that finally surfaced late in 2003 is the impact of the continuing drought and declining mainstem reservoir levels. There are currently no promulgated "shortage" criteria.

6. **Administrative Issues.**

a. River District Constituent Survey. In early 2003, the River District hired a polling firm to conduct a constituent survey. The survey was conducted in the May time frame and presented to the Board at the July 2003 meeting. One of the primary findings of the study is that the River District has poor name recognition, so in August 2003, the River District began a public outreach program.

b. Office Spaces. In 2000, the River District purchased and remodeled the second floor of the Two Rivers Park Building. The River District had been renting portions of that same floor for the past 19 years.

In 2001, the River District put its Glenwood Springs lot (on Devereux Road) on the market. It did not sell in 2001 or 2002 and remains on the market.

In April 2003, the River District signed a contract to sell the Devereux Road property, but ultimately the buyer could not obtain financing. In 2003, the District entered into a contract with a new buyer and a closing is scheduled for March 2004.

c. Staff. In 2000, the River District completed a comprehensive staff salary survey and incorporated this data into a comprehensive staff salary plan. The plan is based on paying at the 60th to 65th percentile level based on similar Colorado water organizations. The 60th percentile level means that in comparing with 10 similar agencies, four would pay more and six would pay less than the River District. The salary survey will be updated in 2003.

The updated salary survey was completed in October 2003. The survey showed that the River District has largely achieved its goal of a compensation plan based on the 65th percentile.

d. Water Marketing. The water marketing program continued to operate smoothly. In 2000, the Enterprise received its Ruedi contracts (totaling 1,200 a.f.).The Enterprise Board also reached agreement with the Basalt and West Divide Conservancy Districts addressing the marketing of wholesale water in these districts. In 2001, we continued processing contracts at a moderate rate.

Because of the drought, in 2002 the demand for River District contracts significantly expanded. The River District has made all of its Eagle River water (250 a.f.) available for marketing. The District also made a request to the Bureau of Reclamation for a third Ruedi Reservoir contract for about 580 a.f. At the end of 2002, this contract was being processed by Reclamation.

In 2003, Reclamation approved the 580 a.f. Ruedi contract. This bring our total Ruedi supplies to 1,780 a.f. Demand for water contracts remained strong in early 2003, but tailed off toward the end of 2003 as hydrologic conditions improved. As of the end of 2003, the River District Enterprise had contracts for delivery of over 3,700 a.f. of Colorado River water supplies.

e. Ballot Question. In June 2002, the River District Board voted to put a tax increase question to the voters. The proposal would have raised the River District mill levy by .25 mills for 25 years. The proceeds would have been used solely for water acquisition, water development and water quality projects. The ballot question failed by a 45% to 55% vote.

In 2003, the River District asked its constituents to approve a TABOR compliance question. This question failed by a 46% to 54% vote.

INDIVIDUAL BASIN OVERVIEWS

THE SETTING

Colorado and the West Slope in particular, are undergoing a period of significant change and growth that began in the 1980s. From 1990 to 2000, the population of Colorado increased from 3,294,394 to 4,301,261 (a 30.6% increase). After the 2002 election, Colorado got a seventh Congressional district.

The population of the 15 River District counties (not corrected for partial county boundaries):

County	1980	1990	2000	% Change 1980-2000
Delta	21,225	20,980	27,834	31.1%
Eagle	13,320	21,928	41,659	212.8%
Garfield	22,514	29,974	43,791	94.5%
Grand	7,475	7,966	12,442	66.4%
Gunnison	10,689	10,273	13,956	30.6%
Hinsdale	408	467	790	93.6%
Mesa	81,530	93,145	116,255	42.6%
Moffat	13,133	11,357	13,184	0.4%
Montrose	24,352	24,423	33,432	37.3%
Ouray	1,925	2,295	3,742	94.4%
Pitkin	10,338	12,661	14,872	43.9%
Rio Blanco	6,255	5,972	5,986	-4.3%
Routt	13,404	14,088	19,690	46.9%

Saguache	3,935	4,619	5,917	50.4%
Summit	8,848	12,881	23,598	166.1%
TOTALS	239, 351	273,029	377,148	57.6%

During that same 20 year period, the population of the State of Colorado increased from 2,889,964 to 4,301,261, a 48.8% increase. The six counties in the Denver Metro Area increased from 1,618,461 to 2,400,570, a 48.3% increase. The statewide economic slowdown beginning in 2000 has slowed down the growth rate somewhat, but it is expected that this will be a short term effect.

RIVER DISTRICT WATER DEMANDS

Despite high municipal growth, the demands for water supplies within the River District are relatively moderate. For mainstem Colorado River uses, water is available from the Wolford Mountain Project as well as Green Mountain Reservoir and Ruedi Reservoir. As lands are naturally converted from agricultural to municipal uses, the historic consumptive use for agriculture often exceeds the municipal use. The primary problem areas are the high mountain valleys, especially those impacted by senior transmountain diversions. In addition to consumptive demands, high mountain stream flows are often needed for water quality and minimum flow purposes. There is also an increasing demand on many western Colorado streams for recreation flows.

In 2004, the River District is working on a number of projects designed to increase West Slope water supplies:

- Phase III of the UPCO Study will propose and evaluate project alternatives to meet water needs on the Colorado River above Kremmling including the Blue River Basin. **The phase III effort has been split into two efforts, one focused on the Fraser River, the other focused on the Upper Blue River.**

- The Enterprise is participating in a study of alternatives to enhance the yield of Eagle Park Reservoir which could enhance the River District's Eagle River Basin water supplies. **In 2003, the study effort was expanded to examine the feasibility study of a smaller Wolcott Reservoir.**

- The River District is cooperating with the Upper Gunnsion River Water Conservancy District to explore water rights augmentation needs and options above the Aspinall Unit.

- The Enterprise is beginning the process of identifying augmentation needs and options for the North Fork of the Gunnison River. **A small enlargement of Overland Reservoir, coupled with a reduced probable maximum flood, has some promise.**

- The Enterprise is sponsoring the enlargement of Elkhead Reservoir in the Yampa River Basin, 5,000 to 7,000 a.f. of which will be used for future human uses. The Enterprise is also exploring the construction of small reservoirs targeted to improve agricultural water supplies.

  In early 2001, Kerry Sundeen of Enartech, Inc. updated a Division 5 water demands study. The Enartech report suggests that the existing mainstem storage supplies available from

Wolford Mountain Reservoir, Ruedi Reservoir and Green Mountain Reservoir are sufficient to meet future West Slope demands for municipal purposes and associated small industrial development. The study findings and qualifications are:

1. It is difficult to predict the impact of agricultural conversions on West Slope demand. This varies from location to location. In the Roaring Fork and Eagle River Valleys, Kerry's study may overstate the demand for reservoir water.

2. Kerry did not attempt to forecast future demands for large industrial uses such as a shale oil industry or for electrical power generation. It is interesting that during the current energy "crisis", synthetic fuels are not on the table. Further, there have never been any real plans for additional electrical generation plants (coal or gas) along the I-70 corridor. However, our largest current customer of Wolford water is an industrial user.

3. Much of future West Slope municipal growth is expected to occur in Mesa County. However, supporting this growth will not require much upstream mainstem reservoir storage. Grand Junction diverts from the Gunnison River. Ute Water has existing storage on Plateau Creek and its senior rights benefit from Green Mountain releases and Clifton has mainstem direct flow rights that require little or no upstream storage releases.

4. The main area where Kerry may underestimate the potential demand for West Slope storage water is in supporting the creative exchanges that will be necessary to provide water in the Blue River and Fraser River Basins where existing water supplies are already fully appropriated.

   This study was completed before we experienced the 2002 drought. The significant impact of the drought on the West Slope demands is a shift by Green Mountain contractors to more secure sources, especially Wolford Mountain Reservoir.

   In 2004, the SWSI study will be conducting a review of Division 5 demands. It may provide information that can be used to update the 2001 study.

FRONT RANGE WATER DEMANDS

Addressing Front Range water demands will be one of the most challenging tasks facing the River District in 2004 and future years. There are six basic water supplies available for use along the Front Range:

1. Native South Platte River Supplies.

In average and above average years, Platte River water is still available, but it requires storage. Initial model runs show that Platte River water is available in average and above average years for conjunctive uses. The Douglas County Water Authority has concluded that in wet years, water is available for diversion by a conjunctive-use project. The Helton-Williamsen study concluded that the C-BT Project has additional East Slope water available for storage in mainly above average years. There is little or no additional native water available in the Arkansas Basin.

2. Additional Imports (transbasin diversions).

The unused capacity of existing transmountain diversion projects from Division 5 is over 100,000 a.f./year - primarily from Dillon Reservoir and the Windy Gap Project. Many Front Range municipalities (and legislators) view additional transmountain diversions as the most obvious solution for future Front Range water demands. There will be additional exports because there remains significant unused capacity (over 100,000 a.f./year) in existing projects, primarily Dillon/Roberts Tunnel and Windy Gap. However, new transmountain diversion will be very difficult to develop primarily because the easy-to-build transmountain projects have already been built.

There continues to be "rumors" that some East Slope parties are pursuing a contract from Blue Mesa Reservoir. The latest is the "Palmer Divide Group." The costs of building and operating a pumpback from Blue Mesa would be very high.

3. Purchase of Agricultural Supplies.

The purchase of agricultural water rights by Front Range municipalities is a very controversial subject, although efforts to restrict it are generally opposed by both agriculture and municipalities. It is a major source for northern Front Range cities. Municipal and industrial users currently own about 62% of the C-BT Project shares. However in average and above average years, much of this water is leased back to irrigators on annual basis. In the mid 1980s, the City of Thornton purchased large amounts of agricultural water and is currently working on a project to deliver this water from northern Colorado to Thornton. Aurora has purchased large amounts of Arkansas Basin agricultural water rights and exports this water from the Arkansas River Basin to the Platte River Basin.

The purchase of agricultural supplies by Front Range water providers remains a politically sensitive issue. In 2003, the City of Aurora reached an agreement with Southeastern Colorado Water Conservancy District under which Aurora agrees to a 40 year moratorium on new agricultural conversions from the Arkansas River Basin. However, Aurora has made it clear that it will be looking for potential agricultural conversions on the Lower South Platte River. Additionally, both Parker Water & Sanitation District and East Cherry Creek Water District have recently acquired South Platte agricultural supplies.

The threat of future agricultural conversions was a major reason Progressive 15 (representing the Lower Platte area) and Action 22 (representing the Arkansas and Rio Grande areas) were major participants in the development of the Colorado 64 principles. Although, the final version of the 64 principles really dances around this issue, recognizing the impact on communities of agricultural conversions, but noting that water rights are private property rights that can and should be subject to an open market. The other major factor facing the issue of agricultural conversion is that reality that the next increment of transmountain water is very very expensive. This reality will drive a market for additional South Platte agricultural diversions.

In 2001, the Colorado General Assembly passed legislation setting up a pilot project water bank in the Arkansas River Basin. The State Engineer and the CWCB will manage the bank. **The State Engineer's Office has issued rules and regulations for operation of the bank, but implementation of the bank has proven to be a slow process.**

4. Effluent-Reuse.

Further effluent reuse from imported water and contributing groundwater is a large source of water available for use. MWSI estimates that by 2020, an additional 90,000 a.f./year of reusable effluent will be available. The problems are that there is far more effluent available than exchange potential, the demand for non-potable water (parks, etc.) is limited and there are political problems with direct and indirect potable re-use. Indirect re-use is where effluent is pumped/discharged into a stream above a standard treatment plant. In reality, indirect reuse occurs on almost every stream (except the uppermost municipality - not counting the elk and sheep), but when streams become effluent-dominated, the water quality problems become more difficult. Colorado Springs intends to develop another 40,000 a.f. (+) of water from reuse and effluent exchanges. However, it needs additional management storage. This storage may be available through the reoperation of the Fry-Ark Project and the enlargement of Pueblo Reservoir.

In 2001, Denver Water broke ground on the construction of a 16,000 a.f. per year non-potable re-use project (now referred to as a recycle plant) that is located near the Metropolitan Denver sewage treatment plant. In 2002, the City of Aurora announced plans for a non-potable re-use project. The first phase of Denver's recycle plant will be operational in early 2004.

5. Groundwater Use.

Since the mid 1980s, non-tributary and not-non-tributary water have been the significant source of water fueling growth in the South Metro Area and El Paso County outside of Colorado Springs. The Denver Basin aquifer system is relatively large, but there are potentially significant local impact and management problems. Development and reliance on a non-renewable source is also a significant political problem. The Douglas County Water Resources Authority Study (DougCo Study) is considering options to better manage available groundwater and the concept of conjunctive use.

In 2003, the DougCo study issued an Executive Summary Report. The full detailed report will be released in early 2004. The study results are going to present decision makers with some very interesting public policy challenges.

Staying with the status quo (continued use of groundwater) is, in the long run (over 50 years), the most expensive option. The region does not run out of groundwater, but as demand increases and well production declines, the cost of using groundwater goes up at an exponential rate. Continuing to use groundwater, but combined with surface storage (of groundwater), extensive re-use and conservation is the most cost effective option.

The additional use of surface water is also an option. As a practical matter, there are three options: a) use of available wet-year South Platte River and Blue River water. The DougCo study focuses on this option. Only a limited amount of water is available. b) Go far into the West Slope for a pumpback project. The "Big Straw" and Blue Mesa pumpbacks are examples. NOTE; the DougCo study does not consider this option, but SWSI might. The disadvantage of this option is the enormous cost. c) The third option is that individual entities in the DougCo study do their own thing. To a certain extent, this is already happening. Parker Water & Sanitation District dropped out of the DougCo study and is trying to build Rueter-Hess Reservoir. Recently, East Cherry Creek Water District announced the purchase of 5,500 a.f. of South Platte agricultural supplies. NOTE; East Cherry Creek still supports a DougCo Project.

6. Conservation.

Most water districts do not consider conservation a source of supply. Rather, it is viewed as a demand reduction. However it is viewed, it is a significant factor. Denver Water now serves about 1,100,000 customers with the same demand it had in the mid-80s serving 800,000 customers. From the West Slope perspective, the most important conservation measures are those that focus on outdoor water uses such as lawn watering.

ENVIRONMENTAL ISSUES

Complying with the many federal environmental regulations is a continuing challenge.

1. Endangered Species Act.

The River District has been involved in the Upper Basin Recovery Program since its inception. The District's strategy is to work toward regulatory certainty by taking aggressive actions to assist or encourage recovery of the four native Colorado River fishes listed as endangered. The River District is involved in implementing actions required by the 15 Mile Reach Biological Opinion, finalizing a Yampa River Basin programmatic biological opinion and developing a Gunnison Basin programmatic biological opinion. Additionally, the River District sponsored its own independent research on the need for high flows in the 15 Mile Reach and actively participates in the Recovery Program Committee process.

There are a number of long standing issues facing the Recovery Program in 2004. The major issues facing the Program are: a) developing a politically acceptable non-native species control program. b) Completing the capital projects program. We are closely involved in the Elkhead Project, completion of the fish passage at the Price-Stubbs Diversion Dam and the Grand Valley Project Diversion Dam (Roller Dam) and completion of fish screens. The GVIC fish screen did not work properly and is being redesigned. c) What is the status of the species after the drought years?

An issue of importance to the River District is completion of the programmatic biological opinions (PBO) in the Yampa Basin, the Gunnison Basin and for the remaining small tributaries (e.g. the White and Dolores Rivers). The U.S. Fish & Wildlife Service is currently completing the required NEPA review on the Yampa management plan which will clear the

way for finalization of a Yampa Basin PBO. Progress on the Gunnison Basin PBO was held up pending settlement of the Black Canyon Reserved Rights case.

The quality of the endangered species-related science is a nationwide concern. By adopting a formal peer review process and involving the impacted state wildlife agencies, the Recovery Program has been better than most. However, we believe that there are still areas that can be improved.

In 1997, the River District Board began funding independent science work. A number of other water entities have contributed funds toward this work. Our focus has been on the role of high springs flows in providing or maintaining habitat.

Staff believes we've largely achieved our policy goal, in 2003 and 2004 or focus has been to finalize and peer review the final work products. A continuing challenge is keeping the pressure on the program for good science.

2. Water Quality Issues.

The River District is following water quality at both the state and federal levels. At the federal level, we are closely following how the Bush Administration is going to revise and administer the total maximum daily loading rules (TMDL). We are also following issues raised by a Ninth Circuit Appeals Court decision that requires NPDES permits to the application of herbicides to ditches and canals. The EPA skirted the issue by agreeing not to enforce the court decision (outside the area covered by the Ninth Circuit) provided that the chemicals are being used strictly as directed by the manufacturer (this is required by law).

During its winter season, the United States Supreme Court will hear what is being referred to as the Mikosukee Case. This case deals with whether or not a diversion out of one basin into another requires an NPDES discharge permit under the Clean Water Act. Three separate Appeals Court Circuits have ruled that transbasin discharge requires NPDES permits. This is going to be an interesting case. A number of western states (and Florida) support overturning the Second Circuit's opinion, and a larger number of states, primarily midwest and east, support upholding the decision.

In 2002, the River District entered into a cooperative program to assess the impact of the 2002 drought on water quality. A report on this effort was completed in the spring of 2003.

3. Forest Service Plans/Bypass Flow Issues.

The White River National Forest finalized its forest plan in December 2002. The provisions dealing with bypass flows were revised essentially removing the requirement to preserve 10% of stream flows in permitting actions. Director Kasper and Chris Treese are participating in a work group addressing water issues related to Grand Mesa, Uncompahgre and Gunnison National Forests (GMUG).

In 2001, the working group decided to pursue a "pilot" project on Willow Creek, a tributary to the Taylor River. This effort continued in 2002 with a series of public meetings. **A project report is being finalized. A key finding may be that the use of bypass flows should be considered a "last resort."**

4. Instream Flows.

In 2001, the Colorado General Assembly passed state legislation concerning recreation in-channel diversions (RICD) water rights. The legislation allows the CWCB to make certain findings concerning these applications and submit them to the water court as a part of the application process.

In the fall of 2001 the CWCB adopted formal rules and regulations describing how it will implement its responsibilities under the RICD legislation. The CWCB rules and regulations were quite broad and opposed by a number of different parties within the River District.

On the West Slope, three pre-SB216 RICD rights have gone to final decree: Breckenridge, Aspen and Vail. The Division 4 Water Court recently issued a decision granting the Upper Gunnison River Water Conservancy District an RICD conditional right, but because the Judge ruled in favor of Upper Gunnison, we expect that the CWCB will appeal. In late 2003, the City of Steamboat Springs made an application for a RICD on the Yampa River.

5. Hydrology/Climate Issues.

An issue that is receiving increased attention in both the technical and popular media is the impact of the global climate variability/change of fresh water supplies. Without getting into the debate about if the greenhouse effect is the cause, the last several years have been very warm. (October 2001 was the hottest October on record for Grand Junction and many other western locations).

The bottom line is that if the recent trends for a warming climate continue, it will have a big impact on water supplies; extreme events will be more severe (both droughts and floods), a higher percent of Colorado's precipitation will fall as rain, evaporation rates will go up and the snow melt will occur earlier in the spring than it did decades ago. My personal opinion is that these effects will result in greater demands on our existing storage facilities for both human uses and environmental purposes.

The years 2000, 2001 and 2002 were below average years (hydrologically). Westwide, 2001 was the driest year since 1977. In 2002, The Pacific Northwest recovered somewhat, but the Southwest and Central Rockies experienced record drought conditions. Inflow to Lake Powell was the lowest on record.

Inflows to Lake Powell in 2003 continued well below average. Lake Powell is forecast to drop a little more than 10 million a.f. in 2004. If total inflow in 2004 is below 70 to 75% of normal, Lake Powell will continue to drop.

While the chances of Lake Powell dropping below minimum rated power head (about 6 million a.f.) are statistically, very slim, the consequences of Lake Powell continuing to drop in 2005, 2006 and beyond, are very profound. Such an event could challenge the basic assumption that Colorado (and Utah and Wyoming) has surplus Colorado River water available for development.

COLORADO RIVER MAINSTEM (DIVISION 5)

The Colorado River mainstem is referred to as "Water Division #5" and includes the Colorado River and its tributaries upstream from the state line, but excluding the entirety of the Gunnison River Basin. The Colorado River mainstem is the heartbeat of Colorado water development. The average annual natural flow of the Colorado River above Grand Junction is approximately 3.6 m.a.f./year. The mainstem provides on average approximately 500,000 a.f./year of transmountain diversions and an additional 500,000 a.f./year of West Slope consumptive uses, primarily agriculture.

Approximately 70 miles of the mainstem, from Rifle to the state line, is designated as critical habitat for endangered fish under the Endangered Species Act (ESA). The 15 river miles from the Grand Valley Diversion Dam near Palisade to the Gunnsion River is referred to as the "15 Mile Reach."

SUMMARY OF MAJOR ISSUES

As the state's largest stream, the Colorado River mainstem has long been the subject of contentious and difficult issues. On the downstream (western) end, the major issues are environmental. In December 1999, the U.S. Fish & Wildlife Service, U.S. Bureau of Reclamation, Colorado Water Conservation Board, environmental representatives and Division 5 water users completed negotiations on a programmatic biological opinion covering all historic depletions, plus an increment of new depletions (120, 000 a.f/year.). The final opinion was issued in late December 1999.

Water quality is a significant issue for municipal and agricultural water users on the lower mainstem. Irrigators are concerned that under certain conditions, mainstem salinity already exceeds desirable levels for sensitive crops.

Primary concerns in the headwaters are related to transmountain diversions. In high demand years the headwaters of the Colorado River mainstem deliver over 600,000 a.f. of transmountain water to the Platte River and Arkansas River Basins. Recent municipal growth on the Colorado Front Range is increasing use of existing diversions and creating pressures for new transmountain diversion projects.

The West Slope has also seen significant population growth from 1980 to 2000. The rate of growth on the West Slope exceeded that of the Front Range. There has been considerable second home/resort home development, especially in the headwaters counties. Second home developments require an infrastructure based on full occupancy. Eagle, Pitkin and Summit Counties are the three largest River District counties in terms of assessment.

In 2001 and 2002, the West Slope experienced both an economic slowdown and a very severe drought. One of the consequences of the drought has been a sharp increase in demand for contract water.

RIVER DISTRICT WATER RESOURCES

The River District and its Enterprise own water and numerous water rights in Water Division 5. The River District, through its Enterprise, has water available for West Slope uses from its Wolford Mountain Reservoir Project. Ten thousand acre feet of Wolford water is available for contract purposes, and an additional 3,000 a.f. of project water is provided to the Middle Park Water Conservancy District. The River District owns 300 a.f. of water in the Eagle River Basin; 200 a.f. of Eagle Park Reservoir water and 100 a.f. of Homestake Reservoir water. The River District's Enterprise has contracts for 1,780 a.f. of Ruedi Reservoir water and has made a contract request for up to an additional 8,000 a.f. of Ruedi water. It also has access to 200 a.f. of Twin Lakes storage water on the Upper Roaring Fork River in some years.

The River District owns rights for constructed and unconstructed projects in Division 5. Wolford Mountain and Ruedi Reservoirs are the constructed projects. Examples of unconstructed projects for which the River District holds conditional rights include: the Azure Project located on the mainstem of the Colorado River below Kremmling, the Redcliff Project located on the Upper Eagle River, the West Divide Project located in Garfield County, with rights on the Crystal and Colorado Rivers, and the Una Project located on the mainstem of the Colorado River near the Garfield County/Mesa County line.

GUNNISON RIVER BASIN (DIVISION 4)

The Gunnison River is the state's second largest stream in terms of mean annual flow. The average annual undepleted flow at Grand Junction is approximately 2.4 million a.f./year. The Gunnison River Basin and the lower portion of the Dolores River Basin create Water Division 4. Only that portion of the Dolores River which lies in Mesa County is included within the River District's boundaries.

The Gunnison River Basin has been dominated by federal water development efforts, including the Uncompahgre Project, Bostwick Park Project, Smith Fork Project, Dallas Creek Project, Paonia Project and the Aspinall Unit. The Aspinall Unit contains three reservoirs: Blue Mesa, Morrow Point and Crystal. At nearly one million acre feet of capacity, Blue Mesa Reservoir is the largest in the State. Agricultural uses and reservoir evaporation are major consumptive uses within the Gunnison Basin. Agriculture consumes approximately 460,000 a.f./year out of a total Basin use of approximately 490,000 a.f./year. The lower 60 miles of the Gunnison River is designated critical habitat for endangered fish.

There are no major transmountain diversions out of the Gunnison River. There are three small, older transmountain diversions into the Rio Grande Basin.

RIVER DISTRICT GUNNISON BASIN RESOURCES

The River District no longer holds any conditional water rights in the Gunnison River Basin. At one time the River District held a number of rights, which were ultimately conveyed to either the United States or conservancy districts (e.g., the Upper Gunnison Project's conditional rights).

The River District holds a contractual interest in the releases from Taylor Park Reservoir through its participation in the Taylor Park Reservoir exchange. In 1975 the River District, Upper Gunnison, Uncompahgre Valley Water Users Association, and the United States Bureau of Reclamation signed the original Taylor Park exchange agreement. That agreement was supplemented in 1990 when the same parties signed an agreement conveying the Taylor Park Reservoir refill right to the United States.

In 1961 the River District conveyed the primary water rights for the Aspinall Unit (then referred to as the Curecanti Unit) to the United States. The assignment included a provision that the United States would operate the Aspinall Unit in a manner consistent with the development of water within the Gunnison River Basin.

SUMMARY OF MAJOR BASIN ISSUES

The major issues in the Gunnison River Basin are associated with the operation of the major federal projects in the Gunnison Basin, the possible effects of the Union Park Water Authority to obtain a water supply contract from Blue Mesa Reservoir and the preparation of a basin-wide biological opinion.

In the early 1900's the Bureau of Reclamation constructed the Gunnison Project (also referred to as the Uncompahgre Valley Project because it is operated by the Uncompahgre Valley Water Users Association) which diverts Gunnison River water through a tunnel into the Uncompahgre Valley. In the 1930's the 106,00 a.f. the Taylor Park Reservoir was added to the project to provide late season water. Taylor Park Reservoir is located on the Taylor River, upstream from the City of Gunnison.

In the 1930's the United States withdrew lands from the Gunnison Gorge and created the Black Canyon National Monument. The southern boundary of the Monument is just downstream of the Gunnison Tunnel Diversion Dam. In the late 1970's the Colorado Supreme Court awarded the United States a federal reserved water right for the Monument. This right has not yet been quantified. In January 2001, the United States filed an application in the Colorado Water Court to quantify the reserved right. **In 2003, the State of Colorado and the United States reached a settlement agreement based on a 300 cfs base flow for the United States and a CWCB peak flow.**

In the 1960's the Bureau of Reclamation built a three-reservoir complex now referred to as the Aspinall Unit. The Aspinall Unit is just upstream of the Gunnison Tunnel Diversion. The purposes of the Aspinall Unit include compact storage, power generation, water supply and recreation. Prior to the construction of the project, the River District and the Upper Gunnison River Water Conservancy District obtained an agreement from the United States subordinating the project to 60,000 a.f. of upstream in-basin depletions. A formal subordination agreement was executed in 2000.

The Aspinall Unit is currently undergoing a Section 7 Consultation review and PBO discussions will be getting underway. Reclamation is planning to commence an Aspinall Unit EIS in 2004. Issues surrounding the operation of the Aspinall Unit, the Section 7 consultation on the Aspinall Unit, the quantification of the Black Canyon National Monument water rights, interpretation of the subordination commitment and delivery of Aspinall water to the Lower Gunnison River for fish purposes are all intertwined.

YAMPA / WHITE RIVER BASINS (DIVISION 6)

The Yampa and White Rivers are tributaries to the Green River, and, together with the North Platte River Basin, are included within Water Division 6. The North Platte (Jackson County) is not included in the River District's boundaries. Development on the White and Yampa Rivers has been primarily agricultural. The Yampa River provides water supplies for the Hayden and Craig coal-fired power stations. There are no major transbasin diversions out of either basin (there are several small transbasin ditches) and there are no Bureau of Reclamation projects in either basin.

The mean annual natural flow of the Yampa River at Maybell, Colorado is approximately 1.2 million acre feet per year. The Little Snake adds another 440,000 a.f. per year. The White River at the state line has a mean annual natural flow of approximately 570,000 a.f./year. Total consumptive uses in the Yampa River average about 120,000 a.f./yr.; the Little Snake depletion averages about 15,000 a.f./yr., and the White River depletions average about 60,000 a.f./yr. The Yampa River below Craig and the White River below Taylor Draw Reservoir are designated critical habitat.

RIVER DISTRICT RESOURCES

The River District holds a number of conditional rights in the Yampa and White River Basins. Diligence on most of the District's Yampa River decrees was completed in 1998 and will be due again in 2004. Over the years the River District has conveyed a number of its conditional rights to projects within the Basin. Elkhead Reservoir, YamColo Reservoir and Stagecoach Reservoir are, in part, operated on decrees that were originally obtained by the River District.

SUMMARY OF MAJOR ISSUES

The Yampa and White River Basins have not experienced the same growth-related pressures as the Colorado or Gunnison Basins. The mainstem of the Yampa River below Yampa has never been administered and the mainstem of the White River below Meeker is rarely administered.

However, both basins are subject to the same pressures related to the recovery of endangered fish species. The U. S. Fish & Wildlife Service (Service) has often stated that the Yampa River is critical to the ultimate recovery and delisting of the endangered native fishes. The role of the Yampa is not so much to provide actual habitat (there are spawning sites in Yampa Canyon), but to maintain the hydrologic conditions in the Green River. Native fish populations in the Green River system are higher and more stable than those in the Colorado.

Over the last decade, our objective has been to provide a framework where existing and future water development in the Yampa River can continue unimpeded while recognizing the important role of the Yampa in recovering the fish. The Yampa River Management Plan and associated PBO is the vehicle designed to accomplish this task.

In late February 2002, the Three Forks Ranch which consists of approximately 250,000 acres located in Colorado and Wyoming in the Little Snake drainage, filed a lawsuit in the Colorado Federal District Court challenging the legality and operation of the Cheyenne Transmountain Diversion Project.

Cheyenne diverts water from the headwaters of the Little Snake River in Wyoming into the North Platte River Basin where it exchanges this water for Douglas Creek water (a tributary of the North Platte closer to Cheyenne). Three Forks Ranch is challenging the Cheyenne Project claiming that it is illegal under the 1948 Upper Colorado River Basin Compact and that Cheyenne has been diverting an average of over 17,000 a.f. per year, but only actually using about 4,300 a.f. per year (by exchange). **In 2003, the Federal District Court ruled that Three Forks did not have standing to file a lawsuit under the 1948 compact, but Three Forks has appealed the decision.**

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